

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: )  
Ron L. Hale et al. ) Examiner: M. Haghigheian  
Serial No.: 10/719,899 ) Group Art Unit: 1616  
Filing Date: November 20, 2003 ) Confirmation No.: 4055  
For: RESPIRATORY DRUG )  
CONDENSATION AEROSOLS )  
AND METHODS OF MAKING )  
AND USING THEM )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**TERMINAL DISCLAIMER TO OBTAIN PROVISIONAL DOUBLE  
PATENTING REJECTIONS OVER PENDING "REFERENCE" APPLICATIONS**

The owner, Alexza Pharmaceuticals, Inc., of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 10/057,197, filed on October 26, 2001; pending **reference** Application Number 10/057,198, filed on October 26, 2001; and pending **reference** Application Number 10/437,643, filed on May 13, 2003 (each hereinafter a “**reference** application”), as such term is defined in 35 U.S.C. § 154 and 173, and as shortened by any terminal disclaimer filed prior to its grant. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on a **reference** application is commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

statutory term as defined in 35 U.S.C. § 154 and 173 of any patent granted on a pending **reference** application, as shortened by any terminal disclaimer filed prior to its grant, in the event that any such patent granted on the **reference** application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney of record.

The undersigned hereby authorizes the charge of the terminal disclaimer fee of \$65.00 or any deficiency of fees to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date June 12, 2008

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